IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8860 of 2000

with

SPECIAL CIVIL APPLICATION No 7349 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T CORPN

Versus

GULAMNABI S VORA C/O MUKESH H RATHOD

Appearance:

1. Special Civil Application No. 8860 of 2000
MR KS JHAVERI for Petitioner
MR GK RATHOD for Respondent No. 1

2. Special Civil Application No 7349 of 2000
MR GK RATHOD for Petitioner
MR KS JHAVERI for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/12/2000

ORAL JUDGEMENT

Special Civil Application No.7349 of 2000 is already admitted.

Rule in Special Civil Application No.8860 of 2000. Mr.G.K. Rathod waives service of rule on behalf of the respondent.

With the consent of the parties, the matters are taken up for final hearing today.

Respondent in Special Civil Application No.8860 of 2000 was dismissed from service as he had not informed the superior about the fact that one passenger was carrying liquor in the bus in which the respondent was a Conductor. After completion of enquiry, he was subjected to the punishment of removal from service. The aforesaid action was challenged by the respondent-workman by way of an industrial dispute and the said matter was referred to the Labour Court, Nadiad and it was numbered as Reference (LCN) No.160 of 1997. The Labour Court, Nadiad, interfered with the punishment order and by its order dated 28th September, 1999, partly allowed the Reference and the concerned workman was ordered to be reinstated on his original post with 25% back wages. The aforesaid order is the subject matter of challenge at the instance of the S.T. Corporation.

Mr.Zaveri for the petitioner-Corporation argued that it was the duty of the Conductor to inform the concerned authority so that proper proceedings could have been taken against the passenger even by lodging complaint against him. He submitted that it is a serious misconduct on the part of the Conductor to allow liquor bottles in the S.T. bus as it would amount to an offence under the Bombay Prohibition Act. He, therefore, submitted that it is not a case in which the Labour Court should have interfered with the punishment order.

Mr.Rathod, on the other hand, has argued that there is no satisfactory evidence on the record to show that the concerned Conductor was guilty of any misconduct and that in absence of any Panchnama, it cannot be said that any particular passenger was carrying liquor bottles with him in the bus. However, one thing which is required to be considered is that in departmental enquiry, even some material on the record is sufficient

for the disciplinary authority for coming to the conclusion about the misconduct or otherwise of the concerned employee. It is not a criminal trial, wherein strict proof of evidence is required. However, in view of the fact that the concerned workman has already retired on reaching the age of superannuation, the question of reinstatement in service will not arise and while confirming the order of the Labour Court, I modify the order of back wages from 25% to 15%. The order of the Labour Court is accordingly substituted as above. The S.T. Corporation is directed to give him back wages at the rate of 15% instead of 25%. Rest of the Award of the Labour Court is confirmed. The S.T. Corporation is directed to give all retirement benefits of the present respondent at the earliest and in any case by 31st January, 2001.

The cross petition filed by Mr.Rathod, being Special Civil Application No.7349 of 2000, is not required to be interfered with and the same is dismissed.

So far as Special Civil Applicaiton No.8860 of 2000 is concerned, petition is partly allowed. Rule is made absolutely to the aforesaid extent with no order as to costs.

So far as Special Civil Application No.7349 of 2000 is concerned, the same is dismissed. Rule is discharged.

19th December, 2000 (P.B. Majmudar, J.)

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(apj)